



**Food and Agriculture  
Organization of the  
United Nations**



**International Treaty  
on Plant Genetic Resources  
for Food and Agriculture**

**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE**

**TENTH MEETING OF THE AD HOC OPEN-ENDED WORKING  
GROUP TO ENHANCE THE FUNCTIONING OF  
THE MULTILATERAL SYSTEM**

**Rome, Italy, 12–14 July 2023**

**CO-CHAIRS' PROPOSAL ON ENHANCING THE FUNCTIONING OF  
THE MULTILATERAL SYSTEM**

## I. INTRODUCTION

1. At its Ninth Session in 2022, the Governing Body emphasized that a fully functional, user-friendly and simple Multilateral System is central for the functioning and success of the International Treaty. Having taken stock of progress made so far to achieve the enhancement of the functioning of the Multilateral System,<sup>1</sup> the Governing Body noted the commitment of Contracting Parties to work together towards adopting a package of measures to enhance the functioning of the Multilateral System.
2. Through Resolution 3/2022, the Governing Body decided to re-establish the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System (Working Group) with a view to finalize the enhancement by the Eleventh Session of the Governing Body in 2025.<sup>2</sup>
3. The Governing Body appointed Mr. Sunil Archak and Mr. Michael Ryan as Co-Chairs and requested the Co-Chairs to include, in the process, a Co-Chairs' proposal, taking into account what had been achieved so far. The Governing Body also requested the Co-Chairs to facilitate interactions and consultations for building mutual understanding and to ensure early attention to key outstanding issues.
4. Since the conclusion of the Ninth Session of the Governing Body, the Co-Chairs have undertaken a series of informal consultations and information-sharing sessions with the regional groups and major stakeholder groups. Details on these activities are provided in the document, IT/OWG-EFMLS-10/23/3, *Update by the Co-Chairs on Consultative Process*.

<sup>1</sup> In 2013, Contracting Parties decided to start a formal process to enhance the functioning of the Multilateral System and established the Working Group with the task to recommend measures to enhance the functioning of the Multilateral System. One of the reasons for the establishment of the Working Group was to speed-up the anticipated slow build-up of a sustainable and predictable stream of user-based income to the Benefit-sharing Fund. The Governing Body renewed the mandate of the Working Group twice, in 2015 and in 2017. The Working Group met ten times between 2014 and 2019. All documents and reports are available on the website of the International Treaty at [www.fao.org/plant-treaty/meetings/en/](http://www.fao.org/plant-treaty/meetings/en/). At the Eighth Session in 2019, the Governing Body encouraged informal consultations among Contracting Parties and among sectors and stakeholders. A summary and the full reports of these informal consultations was provided to the Ninth Session of the Governing Body ([IT/GB-9/22/09.2](http://www.fao.org/plant-treaty/meetings/en/9th-session), *Reports from Informal Consultations on the Enhancement of the Multilateral System*; [IT/GB-9/22/09.2/Inf.1](http://www.fao.org/plant-treaty/meetings/en/9th-session), *Informal Consultation Co-facilitated by India and Switzerland: Enhancing the Functioning of the Multilateral System – Co-facilitators' Report*; [IT/GB-9/22/09.2/Inf.2](http://www.fao.org/plant-treaty/meetings/en/9th-session), *Enhancing the Functioning of the Multilateral System – Reports from Two Virtual Informal Consultations Organized by the Government of Switzerland*. For a general overview of the process, see [www.fao.org/plant-treaty/areas-of-work/the-multilateral-system/enhancement-process/en/](http://www.fao.org/plant-treaty/areas-of-work/the-multilateral-system/enhancement-process/en/).

<sup>2</sup> [Resolution 3/2022](http://www.fao.org/plant-treaty/areas-of-work/the-multilateral-system/enhancement-process/en/), para. 3.

5. The Co-Chairs convened an informal meeting, facilitated by the Meridian Institute, on digital sequence information/genetic sequence data, expansion of Annex 1 and payment rates, the outcomes of which are also reported to the Working Group.<sup>3</sup>
6. The Co-Chairs' proposal is contained in the *Appendix*, with proposals by the Co-Chairs concerning the organization of upcoming work (section 2), reflections on progress made (section 3), and proposals on the substantive issues for discussion (section 4).
7. The Co-Chairs' preliminary suggestion, as advised by the Ninth Session of the Governing Body<sup>4</sup> and largely informed by a predominance of views expressed during the informal consultative processes, is to take the "June 2019 draft package" as the starting point, complemented by additional ideas, recent developments and new approaches arising from this tenth meeting of the Working Group.
8. The Co-Chairs will present their checkpoint report to the Tenth Session of the Governing Body, which would include the Co-Chairs' proposal and consider discussions of the Working Group at this meeting, observations on progress during this biennium and recommendations for the Governing Body's consideration.

## **II. GUIDANCE SOUGHT FROM THE WORKING GROUP**

9. The Working Group is invited to provide input on the pathway forward in the enhancement process, both on process aspects and on the substance, aiming at the negotiations during the next biennium.
10. The Working Group is further invited to discuss the key issues that would be added to a draft negotiation text, especially on digital sequence information / genetic sequence data (DSI/GSD), an expansion of the coverage (Annex I), and payment structure and rates.
11. The Working Group is also invited to provide input and recommendations for a draft Resolution on enhancing the functioning of the Multilateral System that the Co-Chairs intend to include in their checkpoint report.

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<sup>3</sup> IT/OWG-EFMLS-10/23/3/Inf.1.

<sup>4</sup> [Resolution 3/2022](#), para. 4: "Decides that the process should build upon previous progress and achievements both in terms of structure and content and integrate new ideas, if relevant, and address, in a balanced manner, all three blocks of the package of measures developed previously (revised SMTA; expansion of Annex I; implementation measures through a Resolution of the Governing Body)."

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## Appendix

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### Co-Chairs' Proposal

#### 1. Overall objectives and starting point

1. The Co-chairs recall that the Ninth Session of the Governing Body decided to re-establish the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System (Working Group) to finalize the enhancement of the functioning of the Multilateral System by the Eleventh Session of the Governing Body.<sup>5</sup> We, as Co-Chairs, were requested by the Governing Body to provide a checkpoint report to the Tenth Session on progress and for any further guidance.<sup>6</sup>

2. We would like to recall that the basis for the work of this Working Group is well established in Resolution 3/2022. The Governing Body agreed on the shared aims that should guide our process and which we refer to throughout this document and should guide us in our deliberations. These aims range from increasing benefits, and expanding and improving the availability of the crop diversity, to making the Multilateral System more dynamic, while ensuring legal certainty, simplicity and transparency.<sup>7</sup> We are of the view that most of the shared aims were already articulated in the negotiations carried out during the past meetings of the Working Group.

3. Our mandate also states that the process should build on previous progress and achievements, both in terms of structure and content, while integrating new ideas, if relevant. Between 2013 and 2019, the Working Group delivered a significant body of work that resulted in options to enhance the functioning of the Multilateral System<sup>8</sup> and a draft package of measures.<sup>9</sup> We are to address, in a balanced manner, all three blocks of the package of measures developed previously: revised Standard Material Transfer Agreement (SMTA); expansion of Annex I; implementation measures through a Resolution of the Governing Body.<sup>10</sup>

4. During the 2020-22 biennium, informal consultations were held and reported to the Ninth Session of the Governing Body.<sup>11</sup> One of the reports contained a *Non-paper. Enhancement of the Multilateral System: Taking stock of progress made so far*,<sup>12</sup> which was prepared by the Government of Switzerland and later revised, based on the discussions during the informal consultations, with participants from all FAO Regions.

5. We consider this Swiss Non-paper provides a helpful overview of earlier achievements and of outstanding issues and intend to use it as one of inputs available to advance the process.

6. Following the request by the Governing Body, we undertook a series of informal consultations and information-sharing sessions with regions and stakeholder groups, earlier this year. A summary of these efforts is provided in the document, IT/OWG-EFMLS-10/23/3, *Update by the Co-Chairs on Consultative Process*.

7. From these initial informal interactions, we note a general willingness and strong commitment by all Regions and stakeholder groups to resume the negotiation process in a constructive manner. The key areas for early attention in the process have been digital sequence information / genetic sequence data, an expansion of the coverage (Annex I), and the sharing of benefits (including non-monetary).

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<sup>5</sup> [Resolution 3/2022](#), para. 3.

<sup>6</sup> [Resolution 3/2022](#), para. 10.

<sup>7</sup> [Resolution 3/2022](#), para. 2.

<sup>8</sup> [www.fao.org/plant-treaty/areas-of-work/the-multilateral-system/enhancement-process/en/](http://www.fao.org/plant-treaty/areas-of-work/the-multilateral-system/enhancement-process/en/).

<sup>9</sup> [IT/GB-8/19/8.2 Rev.1](#), *Report of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System to the Eighth Session of the Governing Body*.

<sup>10</sup> [Resolution 3/2022](#), para. 4.

<sup>11</sup> [IT/GB-9/22/09.2/Inf.1](#) and [IT/GB-9/22/09.2/Inf.2](#).

<sup>12</sup> [IT/GB-9/22/9.2/Inf.2](#), *Enhancing the Functioning of the Multilateral System – Reports from Two Virtual Informal Consultations Organized by the Government of Switzerland*, Appendix 3.

8. Additionally, we felt that participants were eager to develop an enhanced Multilateral System that is balanced yet simple, and recognized that the key measures needed to achieve such enhancement are interlinked and interdependent.

9. Finally, we would like to highlight the good timing of our re-established process. The recent developments and progress made in other relevant fora are reported in the document, IT/OWG-EFMLS-10/23/5, *Developments in Other Relevant Fora*. In particular, we should consider the outcomes at the CBD and at the United Nations Convention on the Law of the Sea regarding genetic resources of biodiversity beyond national jurisdictions (BBNJ).

10. We believe that the timeline of the Working Group process fits well the upcoming work at these other fora, and we would appeal to Contracting Parties to create and use opportunities for collaboration at national level between the national focal points and negotiators of the relevant instruments.

## 2. Co-Chairs' general reflection on process and organization of work

11. There are many best practices that we can draw upon from the initial phase of negotiations, including the active participation of stakeholder groups in meetings of the Working Group, the submissions by Contracting Parties and stakeholders, or the research and background studies that informed the process.

12. The Working Group also benefited from input by four expert groups established by the Co-chairs, and which prepared reports on areas of interest to the negotiations. The Standing Group of Legal Experts (SGLE) was established by the previous Co-chairs, following a recommendation by the Working Group, and comprised legal experts from all FAO Regions, with support from the FAO Legal Office. At various stages of the process, the Co-chairs organized informal consultations on the package of measures with the negotiators and stakeholders and drafted compromise proposals.

13. Such vehicles for participation and for development and testing of new ideas enriched the discussions of Working Group and paved the way towards consensus-building. We have also learned new ways on communicating and exchanging during the COVID pandemic, including through virtual and hybrid meetings.

14. In moving forward, we believe we the need to organize our work by mixing all these novelties and finding additional ways of working to arrive to a positive outcome. We need to be efficient in meetings of the Working Group, and would like to discuss how best to do so. Previous efforts relied, for example, on too much word-by-word negotiations, during plenary, of each provision of the SMTA, and sometimes the discussions were only of particular interest to specific spokespersons. We would like to discuss whether a smaller group or groups, with specialized expertise or interest, could be delegated to prepare draft proposals for consideration by the Working Group, in particular with regard to the SMTA.

15. We also consider it important to define, as much as possible, how to practically structure the process and work during the next biennium, considering the mandate of the Working Group to finalize the enhancement of the functioning of the Multilateral System by the Eleventh Session of the Governing Body.<sup>13</sup> The process will require commitment from the spokespersons of Parties and stakeholders, and such commitment will need to translate on availability and participation in the process. The Governing Body would need to prioritize the process in the programme of work and budget, so a clear message from the Working Group is needed on this front. Advance planning will also facilitate a transparent process that enables the larger Treaty community to follow the process and to engage at various stages of the deliberations.

16. We have prepared, in the *Annex*, indicative elements for next biennium's timeline. We would like to have an exchange on it at the meeting of the Working Group and be able to finalize our proposal to the Governing Body in our Checkpoint Report. In preparing this tentative timeline, we have considered the international calendar of relevant meetings. We have also considered the need to finalize the Working Group proposal for a package of measures with some time in advance of GB-11. Our goal is, to the extent possible, to be able to produce a full package of measures for consideration by the

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<sup>13</sup> [Resolution 3/2022](#), para. 3.

Governing Body, with little or no major gaps remaining for further development, as the Governing Body has a comprehensive agenda to deliver on.

17. We highlight the importance of consultations at the national level (including on issues such as DSI which are being discussed in various fora) and of regional consultations and inter-regional dialogue beyond the Working Group. This is another reason for delivering the package of measures with sufficient time to enable these consultations and, in particular, to brief and involve relevant decision-makers in preparation for GB-11. Given the importance of involving decision-makers, we propose that consideration should be given to the possibility of organizing a High-level segment in the context of GB-11.

### 3. The “June 2019 draft package” as a possible starting point

18. At its Ninth Session, the Governing Body decided that the process should build upon previous progress and achievements both in terms of structure and content, and integrate new ideas, if relevant, and address, in a balanced manner, all three blocks of the package of measures developed previously.<sup>14</sup>

19. As Co-Chairs, we believe that the ninth meeting of the Working Group, in June 2019, was a moment of significant progress in the earlier phase of our process. What came out of that meeting was perhaps the most advanced draft outcome package of measures the Working Group was able to achieve at that time. In the course of our informal consultations, so far, we also got feedback by a vast predominance of participants and stakeholders reflecting the same view.

20. This “June 2019 draft package”<sup>15</sup> covered all three elements referred to in Resolution 3/2022: a draft revised SMTA, an approach to the possible expansion of Annex I, and suggested implementation measures in a Resolution of the Governing Body. The draft resolution of the June 2019 draft package also comprised elements dealing with what it called “PGRFA information” (not agreed).<sup>16</sup>

21. In the following, we attempt to briefly recall the major elements of the June 2019 draft package as a possible starting point for our further progress. Since we propose not to enter into text negotiations at this meeting, the overview of achievements is given in a synthesized manner. In section 4, we will describe further developments since 2019 and make proposals on how to move forward.

#### a. Overall progress

22. Significant progress was made on all elements of the package of measures at the June 2019 meeting, as provided in the Interim Report.<sup>17</sup>

23. The June 2019 draft package, we deem, signified a moment of genuine commitment, compromise and trust. A clear process was developed for moving ahead with the revision of the SMTA and the amendment of the list of crops, which proved to be crucial for building trust. This included several steps that were listed in a draft Resolution<sup>18</sup> to simultaneously adopt the revised SMTA and the amendment of Annex I, with measures that could be taken if the required number of ratifications for the entry into force would not be reached in time.

24. We consider that there is, currently, an opportunity to move forward and bring the process to enhance the functioning of the Multilateral System to a successful conclusion by the Eleventh Session of the Governing Body.

25. To benefit to the fullest extent possible from the progress and achievements of the earlier phase of the process, we believe it is crucial to maintain the significant substantive progress and the mutual trust that existed at the time of the June 2019 meeting, as a starting point for this next phase of our process.

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<sup>14</sup> [Resolution 3/2022](#), para. 4.

<sup>15</sup> [IT/OWG-EFMLS-9/19/Interim Report](#).

<sup>16</sup> [IT/OWG-EFMLS-9/19/Interim Report](#), page 23.

<sup>17</sup> [IT/OWG-EFMLS-9/19/Interim Report](#).

<sup>18</sup> [IT/GB-8/19/8.2 Rev.1](#), *Report of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System, Annex I*.

26. Our work could start around three “hotspots” for further work: digital sequence information/genetic sequence data, amendment of the coverage of the Multilateral System (amendment of Annex I), and payment structure and rates.

b. Digital sequence information/genetic sequence data (DSI/GSD)

27. In the earlier phase of our process, discussions were held on possible ways of addressing DSI/GSD in the package of measures, and we looked both into terminology and substance, focusing on monetary benefit-sharing from the use of DSI/GSD and related concrete text proposals. These proposals and discussions were summarized by the previous Co-Chairs in several documents.<sup>19</sup>

28. For example, the Working Group discussed where to address DSI/GSD in the revised SMTA and in the Resolution adopting the package of measures, including concrete text proposals.

29. The Working Group also discussed that the Subscription System may provide a promising possibility to reflect DSI/GSD sufficiently, whereas the single access option would require a different approach.

c. Progress in relation to amendment of Annex I

30. The Co-Chairs note an agreement in general that the wider the coverage of the Multilateral System, the greater the potential for the International Treaty to contribute to food security, sustainable agriculture and biodiversity.

31. The June 2019 draft package comprises draft text for an amendment of Annex I of the International Treaty, which the Co-Chairs consider another major achievement of our process. The revised Annex I would include “all PGRFA” but provide for several “safeguards” for Contracting Parties.<sup>20</sup>

32. Before developing this preliminary compromise, the Working Group had explored different modalities for expansion and had been advised by a Friends of the Co-Chairs group established specifically to look into the expansion.<sup>21</sup>

33. We also recall that the Working Group considered the interlinkages between any expansion of the coverage and effective monetary benefit-sharing arrangements and *vice versa*, as well as questions regarding the sequence of implementing the expansion and the revised payment structure.

d. Payment structure and rates

34. In the earlier phase of the process, the Working Group made significant progress in re-structuring the payment mechanism under the SMTA. In particular, the idea of a Subscription System had taken shape early in the process and was then refined throughout the process to develop a very advanced draft in the June 2019 draft package.

35. The development of a Subscription System was a major achievement and one of the innovative ideas of the earlier phase of the process, which today has gained attention in other relevant fora.

36. The key features and aims of the Subscription System in the June 2019 draft package are to keep the administrative burden and costs at a minimum, guarantee legal certainty and transparency, avoid the need for tracking and tracing, make the flow of income to the Benefit-sharing Fund more predictable and sustainable, in particular through upfront benefit-sharing payments, provide access to all germplasm covered by the Multilateral System, and link the benefit-sharing payments to the sales of all PGRFA products of the subscriber.

<sup>19</sup> [IT/OWG-EFMLS-6/17/Inf.8](#), *Consideration of Issues Regarding Genetic Information Associated with Material Accessed from the Multilateral System: Note by the Co-Chairs*; [IT/OWG-EFMLS-8/18/4](#), *Enhancing the Functioning of the Multilateral System: Note by the Co-Chairs* (paras. 30-36); [IT/OWG-EFMLS-9/19/4](#), *Enhancing the Functioning of the Multilateral System: Note by the Co-Chairs* (paras. 39-51); [IT/OWG-EFMLS-9/19/C-C Non-Paper](#), *Enhancing the Functioning of the Multilateral System: Non-Paper by the Co-Chairs* (Section IV on PGRFA information).

<sup>20</sup> [IT/OWG-EFMLS-9/19/Interim Report](#), page 42.

<sup>21</sup> [IT/OWG-EFMLS-6/17/Inf.5](#), *Report from the Friends of the Co-Chairs Group on Scope of the Multilateral System*.

37. In this regard, the Subscription System seeks to address the major challenges of a single access option, such as delayed payments, tracking and tracing, and administrative costs.

38. The June 2019 draft package also contains a proposal for single access option besides the Subscription System, with mandatory payments only.

39. At its earlier meetings, the Working Group discussed the advantages and disadvantages of a Subscription System only SMTA versus an SMTA comprising both a Subscription System and a single access option.<sup>22</sup> The Working Group also noted the structural problems of balancing the payment rates between the two, when discussing efforts to attract as many users to the subscription system as possible.<sup>23</sup>

40. At the June 2019 meeting, the payment rates were yet to be finalized, for both the Subscription System and the single access option, including possible differentiations. Also, the payment basis and possible threshold for exemptions from payment still remain open.

e. Progress in relation to other parts of the revised SMTA

41. The Working Group made significant progress in revising the SMTA and developed, at the meeting in June 2019, a very advanced draft. This work was based on earlier efforts of the Working Group, considering the submissions received from Contracting Parties and stakeholders, advice by the Standing Group of Legal Experts (SGLE) and by several Friends of the Co-chairs groups (FOCCs), as well as taking into account the discussions during a series of informal consultations.<sup>24</sup>

42. The revised SMTA of the June 2019 draft package contained many provisions resolving several issues that would only require minimal further discussions:

- a. Definitions
- b. Withdrawal clauses
- c. Minimum incorporation threshold
- d. Enforceability, dispute settlement, damages
- e. Reporting, monitoring, transparency

43. Other issues in the revised SMTA would still need further work, including:

- a. Termination
- b. Confidentiality of reports
- c. Period of payment obligations under (a mandatory) Art. 6.8
- d. Progress in relation to other major elements

44. A further important element of the June 2019 draft package is the draft provisions on the entry into force of the package of measures, seeking to find a workable and acceptable solution in terms of sequencing the steps and elements related to the adoption of the revised SMTA and the entry into force of the amendment of Annex I.

45. This element sought to address:

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<sup>22</sup> For example, [IT/OWG-EFMLS-5/16/Inf.5](#), *Report from the Friends of the Co-Chairs Group on Access Mechanisms and Payment Rates*; [IT/OWG-EFMLS-6/17/Inf.4](#), *Second Report from the Friends of the Co-Chairs Group on Access Mechanisms and Payment Rates*; [IT/OWG-EFMLS-5/16/4](#), *Enhancing the Functioning of the Multilateral system: Elaboration of the Revised SMTA. Note by the Co-Chairs on the Outcome of the Friends of the Co-Chairs Groups*; [IT/OWG-EFMLS-7/17/2](#), *Draft Co-Chairs' Proposal from the Outcomes of the Meetings of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System*.

<sup>23</sup> Ibid; [IT/OWG-EFMLS-2/14/3](#), *Synoptic Study 1: Estimating Income to be expected from possible changes in the provisions governing the functioning of the Multilateral System*; Moeller/Stannard (2014) [Background Study 1](#): Estimating Income to be Expected from Possible Changes in the Provisions Governing the Functioning of the Multilateral System; [IT/OWG-EFMLS-7/17/Report](#).

<sup>24</sup> [IT/GB-9/22/9.2/Inf.3](#), *Overview of Resources Available Under the Process to Enhance the Functioning of the Multilateral System*.

- The interlinkages between the expansion of the coverage and the realization of benefit sharing and *vice versa* (would benefit-sharing come before the amendment or *vice versa*); and
- Trust building measures among Contracting Parties and between Contracting Parties and users of the Multilateral System, especially the private sector.

46. The Working Group did not finalize this draft element.

#### 4. Proposals on the way forward

##### a. Process

47. As outlined in section 2 above, as Co-Chairs, we suggest structuring the work of the Working Group in an efficient manner by possibly entrusting smaller groups to prepare draft proposals for consideration by the Working Group (especially on revisions to the SMTA), by ensuring commitment from all spokespersons, by preparing a timeline for the next biennium, and by using possibilities to establish national, regional and inter-regional dialogues.

48. Moreover, as Co-Chairs we would appreciate the Working Group's views on sending a strong message to the Governing Body regarding financial resources, sufficient time and need of high-level political attention, if the process should be finalized by the Eleventh Session of the Governing Body.

49. We are eager to consult Regions and stakeholder groups about how to structure the timeline and deliverables for the next biennium, based on the draft timeline in the *Annex*.

50. We will also continue to liaise with other relevant intersessional processes at the International Treaty, namely the Standing Committee on the Funding Strategy and Resource Mobilization (especially regarding the funding target for the Benefit-sharing Fund and measures on non-monetary benefit-sharing) and the Compliance Committee (regarding availability of material and possible advice on strategies to improve access to material).

51. Finally, we aim at including recommendations for a draft Resolution in our checkpoint report to the Tenth Session of the Governing Body, including both process and substance recommendations. The outcomes of this meeting will be considered in preparing these recommendations.

##### b. Substance

52. As Co-Chairs we believe that the June 2019 draft package will be a good basis and starting point to take the process forward. Further elements, fresh ideas and new approaches might be helpful, also considering developments in other fora since 2019.

53. The key areas are the three "hotspots" of digital sequence information/genetic sequence data, amendment of the coverage of the Multilateral System (amendment of Annex I), and payment structure and rates.

##### i. Digital sequence information / genetic sequence data

54. A major development since 2019 is the outcome of the fifteenth meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD COP-15).<sup>25</sup> The progress at that meeting could provide further impetus to find a solution that addresses the specific circumstances under and issues within the mandate of the International Treaty.

55. At CBD COP-15,<sup>26</sup> countries agreed that benefits from the use of DSI/GSD on genetic resources should be shared fairly and equitably. This stated principle was not agreed before and is certainly to be taken into account in the negotiations under the International Treaty.

<sup>25</sup> [www.cbd.int/meetings/COP-15](http://www.cbd.int/meetings/COP-15).

<sup>26</sup> [Decision 15/9](#). *Digital sequence information on genetic resources*.



56. Moreover, CBD COP-15 also agreed that a solution should be mutually supportive of and adaptable to other instruments and fora while recognizing that other fora may develop specialized approaches.
57. Although the Convention on Biological Diversity (CBD) could not finalize a comprehensive solution dealing with all aspects of DSI/GSD, it agreed to develop a solution for the sharing of benefits arising from the use of DSI/GSD on genetic resources based on a list of concrete principles.<sup>27</sup>
58. It decided “to establish, as part of the Kunming-Montreal Global Biodiversity Framework, a multilateral mechanism for benefit-sharing from the use of digital sequence information on genetic resources, including a global fund.”<sup>28</sup>
59. So far, the CBD did not reach any final agreement on a possible legal definition of DSI/GSD.
60. Given these developments and considering that the Governing Body considered DSI/GSD to be one of the “key issues”,<sup>29</sup> we suggest moving ahead with developing a solution on DSI/GSD for the Multilateral System and making this area a key element of our process.
61. Based on our informal conversations during the current biennium, we believe that there is a clear willingness to deal with DSI/GSD in the International Treaty.
62. We suggest that the Working Group considers a principle of benefit-sharing from the use of DSI/GSD, as well as a framework for addressing it. We think that the text agreed at CBD COP-15 could provide elements of inspiration for developing such a framework, including features to be met such as: to be practical; generate more benefits than costs; not hinder research and innovation and others criteria listed in the decision.<sup>30</sup>
63. Since the CBD decided to finalize a solution for DSI/GSD on genetic resources in general, we note that the CBD solution will provide a “safety net” for all DSI/GSD not dealt with under the International Treaty, in Parties to the CBD.

ii. Amendment of Annex I

64. Two of the shared aims identified by the Ninth Session of the Governing Body for the process are to “expand the crops and plant genetic diversity available through the Multilateral System”, and to “improve the availability of plant genetic resources for food and agriculture in the Multilateral System”.<sup>31</sup>
65. Based on our informal conversations during this biennium, there is good reason to believe that consensus exists on expanding Annex I. The June 2019 expansion concept is a good achievement and will be a good starting point, but it requires more work.
66. From our informal conversations, we also see that a decision to expand the coverage of the Multilateral System should probably be made only once. If we want the enhancement to be future-proof, it would be politically very difficult to phase the addition of crops to the coverage of the Multilateral System in the future, as it would entail several commensurate ratification rounds, as well as raise several practical questions.
67. However, we encourage the Working Group to discuss possible pragmatic ways of gradually expanding the coverage, so that the Multilateral System will eventually cover all PGRFA.
68. Rather than through the safeguards included in the 2019 draft package, this could be realized, for instance, by amending the International Treaty to include, in-principle, all PGRFA in the Multilateral System. The practical implementation could then be by giving the Governing Body flexibility to agree on priority crops to be progressively included in a list. Contracting Parties could also, alternatively, have flexibility to gradually implement the expansion at national level. The nationally

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<sup>27</sup> [Decision 15/9](#). *Digital sequence information on genetic resources*, para. 9.

<sup>28</sup> [Decision 15/9](#). *Digital sequence information on genetic resources*, para. 16.

<sup>29</sup> [Resolution 3/2022](#), para. 10.

<sup>30</sup> [Decision 15/9](#). *Digital sequence information on genetic resources*, para. 9.

<sup>31</sup> [Resolution 3/2022](#), para. 2.

determined contributions under the United Nations Framework Convention on Climate Change could provide some inspiration and we could look further into such approach.<sup>32</sup>

69. This could also be accompanied by language in a draft Resolution setting a common goal or vision by the Governing Body to have, for example by 2050, a Multilateral System containing well curated, fully characterized and described genetic resources of as broad a list of food and forage crops as possible.

70. The Working Group could also discuss the possibility of setting certain priorities for Contracting Parties as they gradually implement the full expansion at national level, seeking to reach the goal established by the Governing Body.

71. Needs and interests of stakeholders, including users of MLS, will also inform a priority setting process. These priorities could include criteria such as interdependence (crops with the highest level of interdependence of countries in the world) or use (crops with the highest degree of use for nutrition or climate resilient production). A study commissioned by the Secretariat in the last biennium with metrics for around 350 crops and forages could provide useful metrics and guidance in this context.<sup>33</sup>

### iii. Payment structure and rates

72. The shared aims of our process, as mentioned in Resolution 3/2022, include to “increase the benefits that arise from the Multilateral System for all Contracting Parties and users, both monetary and non-monetary” and to “increase user-based income to the Benefit-sharing Fund in a sustainable and predictable long-term manner”.<sup>34</sup>

73. The discussion on payment structure and rate will also benefit from information on progress in the work of the Standing Committee on the Funding Strategy and Resource Mobilization regarding a funding target for the Benefit-sharing Fund. As Co-Chairs we will continue to liaise with the Co-Chairs of the Funding Committee.

74. The Working Group could agree on a principle that we should be looking for a system that supports participation of the broadest range of users possible.

75. We would like to recall that the Working Group, in the early stages of the process, considered possibilities for Contracting Party contributions to the Benefit-sharing Fund, considering the model of the ongoing annual contributions by Norway.

76. Given recent informal conversations we had, we propose to re-consider if the Working Group may want to discuss the possible role of Contracting Party contributions, to complement payments by users of the Multilateral System.

77. We also propose to allow space to spokespersons of the Working Group, at this meeting, for suggesting new approaches to possible payment mechanisms that could be added to the June 2019 draft package. Such approaches could be informed by recent developments in other international fora.<sup>35</sup>

### iv. Other provisions of the SMTA

78. One of the shared aims mentioned in Resolution 3/2022, which we as Co-Chairs consider to be of key importance for advancing our work on the revised SMTA, is to “create legal certainty, administrative simplicity and transparency for everyone participating in the Multilateral System.”<sup>36</sup>

79. We believe that there is merit in focusing first on the key outstanding issues and deal with the more detailed issues in a second phase, in the next biennium.

<sup>32</sup> [unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs](https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs).

<sup>33</sup> [IT/GB-9/22/16.2/Inf.1](#), *The Plants That Feed the World: baseline data and metrics to inform strategies for the conservation and use of plant genetic resources for food and agriculture*. The final version of the study will be published later this year.

<sup>34</sup> [Resolution 3/2022](#), para. 2.

<sup>35</sup> See update provided in document IT/OWG-EFMLS-10/23/5, *Developments in Other Relevant Fora*.

<sup>36</sup> [Resolution 3/2022](#), para. 2.

80. In this context, we also reiterate our above process-related proposal to establish a small group of legal experts to draft text for the consideration of the Working Group.

*Annex***PRELIMINARY TIMELINE FOR THE WORKING GROUP**

<b>TIMELINE</b>	<b>SUGGESTED MILESTONES AND DELIVERABLES</b>	<b>RELEVANT INTERNATIONAL MEETINGS</b>
2023 – second semester	<ul style="list-style-type: none"> <li>▪ Finalization of Co-Chairs checkpoint report: early Sept 2023</li> <li>▪ Regional Consultations: Oct 2023</li> </ul> GB-10: 20-24 Nov 2023	<i>CBD DSI Working Group - 1: 14-18 Nov 2023 (Geneva)</i>
2024 – first semester	<ul style="list-style-type: none"> <li>▪ 11<sup>th</sup> Working Group meeting: March 2024:               <ul style="list-style-type: none"> <li>○ Deliverables: Options paper on 3 hotspots by Co-Chairs + June 2019 draft package of measures for extensive comments by Working Group</li> </ul> </li> <li>▪ Small groups/informals/legal expert group: June-July 2024 to take up elements of the package               <ul style="list-style-type: none"> <li>○ Deliverables: reports on key elements/hotspots delivered to Co-Chairs</li> </ul> </li> </ul>	<i>CBD DSI Working Group - 2: 20-23 May 2024 (Kunming, China)</i>
2024 – second semester	<ul style="list-style-type: none"> <li>▪ 12<sup>th</sup> Working Group meeting: Early September 2024               <ul style="list-style-type: none"> <li>○ Review small group(s) work and discuss further tasks</li> </ul> </li> </ul>	<i>CBD COP 16: 21 October – 1 November 2024, Türkiye</i>
2025 – first semester	<ul style="list-style-type: none"> <li>▪ 13<sup>th</sup> Working Group meeting: back-to-back with CGRFA-20 if availability in HQ is confirmed:               <ul style="list-style-type: none"> <li>○ Consideration of first draft package of measures</li> </ul> </li> <li>▪ Small groups/informals + Regional/interregional virtual consultations and exchanges: May-June 2025               <ul style="list-style-type: none"> <li>○ Take up elements of the package</li> </ul> </li> </ul>	<i>CGRFA-20: 17-21 Feb 2025, Rome, Italy</i>
2025 – second semester	<ul style="list-style-type: none"> <li>▪ Working Group meeting: mid-July 2025 – Location: could be GB-11 host country               <ul style="list-style-type: none"> <li>○ Deliverable: report to GB with MLS enhancement package</li> </ul> </li> <li>▪ Regional / national consultations: August – October 2025</li> </ul> GB-11 + High Level Segment (24 – 29 November 2025)	<i>FAO Conference: July 2025, Rome, Italy</i>